

Senate File 19

SENATE FILE _____
BY JOHNSON

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to animal feeding operations, by providing for
2 standards and evaluations by the department of natural
3 resources.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1465SS 82
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1 1 Section 1. Section 459.303, subsection 1, unnumbered
1 2 paragraph 1, Code 2007, is amended to read as follows:
1 3 The department shall approve or disapprove applications for
1 4 permits for the construction, including the expansion, of
1 5 confinement feeding operation structures, as provided by rules
1 6 adopted pursuant to this chapter. The department's decision
1 7 to approve or disapprove a permit for the construction of a
1 8 confinement feeding operation structure shall be based on
1 9 whether the application is submitted according to procedures
1 10 required by the department and the application meets standards
1 11 established by ~~the department this chapter~~. A person shall
1 12 not begin construction of a confinement feeding operation
1 13 structure requiring a permit under this section, unless the
1 14 department first approves the person's application and issues
1 15 to the person a construction permit. The department shall
1 16 provide conditions for requiring when a person must obtain a
1 17 construction permit.

1 18 Sec. 2. Section 459.312, Code 2007, is amended by adding
1 19 the following new subsection:
1 20 NEW SUBSECTION. 4A. The department shall provide for the
1 21 receipt and processing of manure management plans, including
1 22 updates to manure management plans, in an electronic format
1 23 pursuant to section 459.302, not later than July 1, 2009. On
1 24 and after that date, a person required to submit a manure
1 25 management plan under this section shall submit the manure
1 26 management plan to the department and to the county board of
1 27 supervisors in an electronic format.

1 28 Sec. 3. Section 459.312, subsection 9, unnumbered
1 29 paragraph 1, Code 2007, is amended to read as follows:

1 30 The department shall approve or disapprove a manure
1 31 management plan according to standards established by this
1 32 chapter and procedures established by the department:

1 33 Sec. 4. NEW SECTION. 459.611 DEPARTMENTAL EVALUATION AND
1 34 ORDER.

1 35 1. The department may conduct an evaluation of a
2 1 confinement feeding operation that has commenced operation to
2 2 determine if any of the following apply:

2 3 a. Manure from the confinement feeding operation is being
2 4 discharged into a water of the state and the confinement
2 5 feeding operation is not providing for the applicable minimum
2 6 level of manure control as specified in section 459.311.

2 7 b. Manure from the confinement feeding operation is
2 8 causing or may reasonably be expected to cause pollution of a
2 9 water of the state.

2 10 c. Manure from the confinement feeding operation may
2 11 reasonably be expected to cause a violation of water quality
2 12 standards as provided in this chapter or chapter 455B.

2 13 2. The department may evaluate a confinement feeding
2 14 operation regardless of whether it is a small animal feeding
2 15 operation or includes a confinement feeding operation
2 16 structure which is constructed pursuant to a permit issued
2 17 pursuant to section 459.303.

2 18 3. The department shall not conduct an evaluation of a

2 19 confinement feeding operation which has not commenced
2 20 operation to determine if any of the conditions provided in
2 21 this section exist, unless the requirements of this chapter
2 22 are not met. However, the department may send a letter of
2 23 concern by certified mail to the owner of the confinement
2 24 feeding operation that explicitly states the department's
2 25 concern that a condition on the site where the confinement
2 26 feeding operation is or may be constructed, if not addressed,
2 27 may result in the pollution of the waters of the state. The
2 28 department's letter shall provide the reasons for its concern
2 29 and a possible remedy to the condition which could be
2 30 implemented by the owner. The letter shall also inform the
2 31 owner of likely administrative or judicial action if the
2 32 condition exists, is not remedied, and results in the
2 33 pollution of the waters of the state when the confinement
2 34 feeding operation commences operations.

2 35 4. If based on the results of the evaluation the
3 1 department determines that a condition provided in this
3 2 section exists, the department may issue an order to a person
3 3 responsible for the operation of the confinement feeding
3 4 operation which has been evaluated. The order shall require
3 5 the person to institute remedial action necessary to eliminate
3 6 the condition.

3 7 Sec. 5. NEW SECTION. 459A.511 DEPARTMENTAL EVALUATION
3 8 AND ORDER.

3 9 1. The department may conduct an evaluation of an open
3 10 feedlot operation that has commenced operation to determine if
3 11 any of the following apply:

3 12 a. Open feedlot effluent from the open feedlot operation
3 13 is being discharged into a water of the state and the open
3 14 feedlot operation is not providing for the applicable minimum
3 15 level of open feedlot effluent control as provided in section
3 16 459A.401, 459A.402, or 459A.410.

3 17 b. Open feedlot effluent from the open feedlot operation
3 18 is causing or may reasonably be expected to cause pollution of
3 19 a water of the state.

3 20 c. Open feedlot effluent from the open feedlot operation
3 21 is causing or may reasonably be expected to cause a violation
3 22 of state water quality standards under this chapter or chapter
3 23 455B.

3 24 2. The department shall not conduct an evaluation of an
3 25 open feedlot operation which has not commenced operation to
3 26 determine if any of the conditions provided in this section
3 27 exist, unless the requirements of this chapter are not met.
3 28 However, the department may send a letter of concern by
3 29 certified mail to the owner of the open feedlot operation that
3 30 explicitly states the department's concern that a condition on
3 31 the site where the open feedlot operation is or may be
3 32 constructed, if not addressed, may result in the pollution of
3 33 the waters of the state. The department's letter shall
3 34 provide the reasons for its concern and a possible remedy to
3 35 the condition which could be implemented by the owner. The
4 1 letter shall also inform the owner of likely administrative or
4 2 judicial action if the condition exists, is not remedied, and
4 3 results in the pollution of the waters of the state when the
4 4 open feedlot operation commences operations.

4 5 3. If based on the results of the evaluation the
4 6 department determines that a condition provided in this
4 7 section exists, the department may issue an order to a person
4 8 responsible for the operation of the open feedlot operation
4 9 which has been evaluated. The order shall require the person
4 10 to institute remedial action necessary to eliminate the
4 11 condition.

4 12 EXPLANATION

4 13 This bill amends provisions in Code chapter 459, which
4 14 authorizes the department of natural resources to regulate
4 15 animal feeding operations, including confinement feeding
4 16 operations, and Code chapter 459A, which supplements those
4 17 provisions by authorizing the department to regulate open
4 18 feedlot operations.

4 19 Code section 459.303 provides for the approval or
4 20 disapproval of applications for permits to construct
4 21 confinement feeding operation structures (e.g., confinement
4 22 buildings, manure storage structures, and egg washwater
4 23 storage structures). The department's decision is in part
4 24 based on whether the application meets the standards
4 25 established by the department. The bill provides that the
4 26 application must meet standards established in the Code
4 27 chapter in lieu of standards established by the department.
4 28 See Code section 459A.205, which authorizes the department to
4 29 approve or disapprove applications for permits to construct

4 30 settled open feedlot effluent basins and alternative
4 31 technology systems associated with open feedlots based on
4 32 standards and procedures required in the chapter.
4 33 Code section 459.312 provides for the submission of manure
4 34 management plans to the department and the county where a
4 35 manure storage structure is located or where manure is applied
5 1 by an owner of a confinement feeding operation or a person who
5 2 applies manure from a confinement feeding operation which is
5 3 located in another state, if the manure is applied on land
5 4 located in this state. The bill provides that a person must
5 5 submit a manure management plan in an electronic format on and
5 6 after July 1, 2009. Generally, a manure management plan must
5 7 include information regarding how much and where manure kept
5 8 in a manure storage structure is to be applied. The
5 9 department must approve the manure management plan according
5 10 to procedures established by the department. The bill
5 11 provides that the application must meet standards established
5 12 in the Code chapter. See Code section 459A.208 requiring the
5 13 department to approve nutrient management plans according to
5 14 procedures required by the department in compliance with the
5 15 provisions of that chapter.

5 16 The bill provides for additional provisions in both Code
5 17 chapters which authorize the department to conduct an
5 18 evaluation of an animal feeding operation which is a
5 19 confinement feeding operation or an open feedlot operation
5 20 that has commenced operation in order to determine if manure
5 21 or open feedlot effluent is being discharged into a water of
5 22 the state or may reasonably be expected to cause pollution of
5 23 a water of the state. In addition, the bill provides that the
5 24 department is prohibited from conducting an evaluation of the
5 25 animal feeding operation which has not commenced operation,
5 26 unless a requirement provided in Code chapter 459 or 459A has
5 27 not been met. The bill does provide that the department may
5 28 send a letter of concern to the animal feeding operation. The
5 29 bill provides that based on the results of the evaluation, the
5 30 department may issue an order to a person responsible for the
5 31 operation of the animal feeding operation which has been
5 32 evaluated in order to compel the person to institute remedial
5 33 action necessary to eliminate the condition.

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